



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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June 5, 2006

TO: STATE ASSESSEES AND
OTHER INTERESTED PARTIES

Re: Guidelines for Property Tax Appeals Division Review and Appeals Conference Process

This letter updates and supersedes the letter dated June 17, 2005, informing you that the Appeals Division of the Legal Department had assumed the function of reviewing property tax petitions, party briefs and evidence and preparing hearing summaries and summary decisions for the Board's consideration. On May 17, 2006, the Board approved the following guidelines, which will be implemented this year commencing with petitions for reassessment of 2006 state-assessed unitary property values and all other property tax petitions filed on or after July 20, 2006. The most significant change from the existing process is that Appeals Conferences will be held for certain state assessee and private railroad car petitions, and for all other property tax appeals, as described more fully below. The purpose of Appeals Conferences is to enhance the independent review function of the Appeals Division by enabling conference holders to independently develop the factual record, and to narrow and resolve issues raised in the petition to the greatest extent possible prior to the Board's decision on the petition. Implementing the conference process this year will enable the Board and staff to further refine the procedures and practices to ensure that they are properly integrated into the overall property tax appeal process prior to the promulgation of procedural regulations. The regulations authorizing the Appeals Division review process will be formally proposed for the Board's approval as part of Chapter 3 of the Rules for California Tax Administration and Appellate Review.

I. Procedures for All Property Tax Petitions

A. Discussions with Board Staff

For all property tax petitions, the Board's Property and Special Taxes Department staff (i.e., Valuation, Assessment Policy and Standards, and County Property Tax Divisions) will continue the established practice of conducting pre-hearing meetings and making informal contact with petitioners' representatives to request information and resolve issues in the course of the appeals process.

B. Hearing Summary or Summary Decision

The Appeals Division will prepare a “Hearing Summary” (for oral hearings) or a “Summary Decision” (for non-appearance matters) for each petition presented for the Board’s consideration. Both a Hearing Summary and a Summary Decision set forth an objective statement of facts and a neutral analysis of the legal and valuation issues to assist the Board in taking action on the petition. If the Appeals Division determines that the Hearing Summary requires any corrections or changes based on subsequently obtained information, the Appeals Division will prepare a “Revised Hearing Summary.”

II. Appeals Conference Procedures

A. State Assessee and Private Railroad Car Petitions - An Appeals Conference will be held in the following circumstances:

- For each petition that requests an oral hearing;
- For each petition that requests an Appeals Conference, but not an oral hearing;
- At a Board Member’s request for petitions that do not request an oral hearing or Appeals Conference.

B. State Assessee and Private Railroad Car Petitions – Preparation of Hearing Summary or Summary Decision

A Hearing Summary or Summary Decision will be prepared for each petition presented for the Board’s consideration, as follows:

1. Appeals Conference Held (Oral Hearing and Nonappearance). The Appeals Division will prepare the Hearing Summary or Summary Decision. (See sections III.D and IV.A below.)
2. No Appeals Conference (All Issues Resolved). When an Appeals Conference is not held and all issues are resolved, the Tax and Fee Program Division of the Board’s Legal Department will prepare the Summary Decision for the Board’s consideration on the Property Tax Matters Nonappearance calendar. (See section IV.B below.)
3. No Appeals Conference (Unresolved Issues). When an Appeals Conference is not held and one or more issues are unresolved, the Appeals Division will review the petition, the Valuation Division Summary, and the petitioner’s optional response prior to preparing the Summary Decision for the Board’s consideration on the Legal Appeals Matters Nonappearance calendar. (See section IV.C below.)

C. All Other Property Tax Petitions

For all other property tax petitions (i.e., welfare exemption and Property Tax Sampling Program petitions and Section 11 applications), the Appeals Division review will include an Appeals Conference, regardless of whether the petition will be decided by the Board at an oral hearing or as a written-only, nonappearance item. A Hearing Summary (for oral hearings) or a Summary Decision (for nonappearance matters) will be prepared by the Appeals Division.

III. Appeals Conference Process for State Assessee and Private Railroad Car Company Petitions

A. Scheduling

Petitioners are required to request an oral hearing or Appeals Conference at the time the petition is filed. If an oral hearing or Appeals Conference is requested, an Appeals Conference is mandatory. This means that the Appeals Conference will be held whether or not the petitioner attends, unless the petitioner waives its request for an oral hearing or its request for an Appeals Conference prior to the date of the Appeals Conference. A petitioner that requested an oral hearing may waive its oral hearing without waiving its Appeals Conference, and, even if a petitioner waives its right to an oral hearing and its Appeals Conference, an Appeals Conference will still be held if requested by a Board Member. The petition for reassessment form has been modified by adding a space for the petitioner to request an Appeals Conference if an oral hearing is not requested.

The Board Proceedings Division will schedule an Appeals Conference no less than 30 days before the oral hearing on the petition. Due to the fact that the Board must hear and decide all petitions for reassessment by the end of the calendar year, the Board Proceedings Division has a narrow window of time within which to schedule all Appeals Conferences. For that reason, the Board Proceedings Division will schedule all 2006 oral hearings and all nonappearance matters for which an Appeals Conference is held for the November and December 2006 Board meetings. It is anticipated that the Appeals Conferences for the November oral hearings will be scheduled on or about the week of October 16 through 20, 2006, and the Appeals Conferences for the December oral hearings will be scheduled on or about the week of November 6 through 10, 2006.

The Board Proceedings Division will notify the petitioner, the Valuation Division, and the Tax and Fee Programs Division of the date, time and place of the Appeals Conference by mail, electronic mail or facsimile. The parties will be asked to confirm their attendance at the Appeals Conference. The Board Proceedings Division will attempt to accommodate a request for rescheduling. Once a party has confirmed its attendance at the Appeals Conference, however, the Appeals Division will hold the Appeals Conference even if that party does not appear.

The typical Appeals Conference will be allotted one hour, while Appeals Conferences for petitions involving more complex issues will be allotted 90 minutes or more. Petitions for related companies involving the same issues may be consolidated for one Appeals Conference and, if the petitions are consolidated, the time allotment for the Appeals conference will be adjusted, if necessary.

B. Conference Briefing Process

The petition shall constitute the petitioner's opening brief. The Valuation Division will prepare and submit the "Valuation Division Summary" to the Board Proceedings Division, which will transmit a copy to the petitioner, no less than 30 days prior to the scheduled date of the Appeals Conference. The petitioner may file an optional response within 15 days after the Board Proceedings Division mails the Valuation Division Summary to the petitioner. The Appeals Division may also request additional information or briefing from the parties before, during, or after the Appeals Conference. If additional information or briefing is orally requested at the Appeals Conference, the conference holder will confirm the request in writing no later than two business days after the Appeals Conference. Unless otherwise permitted by the Appeals Division, all additional information and briefing requested at the Appeals Conference must be submitted no later than seven days after the Appeals Conference was held. Requests for modifications of the briefing schedule (including extensions) should be directed to the Board Proceedings Division.

C. Conduct of the Appeals Conference

To open the conference, the conference holder will state the name of the case, the matters that are at issue, and briefly explain the Appeals Conference process. While the Appeals Conference will be held in an informal manner that encourages the free exchange of information and opinions, as a general rule the petitioner will be allowed to make a brief opening statement and to make the first presentation. The Valuation Division will then have an opportunity to respond to each issue raised by petitioner. The conference holder will have broad discretion to control the scope of the presentations and to ask questions at any point in the presentations in order to develop as complete a factual record as possible, narrow the issues in dispute, and facilitate the resolution of as many issues as possible.

The petitioner will be represented at the Appeals Conference by an agent or employee who is thoroughly familiar with the facts and issues and has been authorized to represent the petitioner. The Valuation Division will be represented by an appraiser and a Tax and Fee Program Division attorney. If a petitioner's representative is not able to appear in person, the representative may request a conference by telephone or, if facilities are available, by videoconference. If a petitioner waives its appearance or if its agent fails to appear for an Appeals Conference, the Appeals Conference will be held with only the representatives for the Valuation Division. Petitioners are advised that a party's nonappearance will be reflected in the conference holder's Hearing Summary or Summary Decision, discussed below.

The conference holder will not make an audio, video, or stenographic recording of the Appeals Conference proceedings. Any party may arrange for a recording, at that party's expense. If such a recording is made, a copy of the recording or transcript shall be made available to the conference holder and the other party. Such recording or transcript shall become a public record when made, and shall be subject to disclosure to the public at the conclusion of the petitioner's oral hearing, if one is held.

D. Appeals Hearing Summaries for Oral Hearings

The conference holder will prepare a Hearing Summary for each Appeals Conference held for a petition that has requested an oral hearing, similar to the hearing summaries prepared by the Appeals Division for last year's oral hearings. The Hearing Summary will objectively summarize the Appeals Conference proceedings, state the issues presented, including those that have been narrowed and resolved, and establish a factual record either through stipulation or independent recommendations of findings based on the evidence. The Hearing Summary will also present a neutral analysis of the legal and valuation issues and provide the Appeals Division's comments to assist the Board at the oral hearing. The Hearing Summary will be submitted to the Board Proceedings Division no less than 10 days before the oral hearing and the Board Proceedings Division will distribute copies to the Board Members and to the parties. If the Hearing Summary requires correction or clarification, the Appeals Division will prepare and submit a Revised Hearing Summary to the Board Proceedings Division prior to the oral hearing. If the Appeals Division does not determine that a correction or clarification is required prior to the day of the oral hearing, the Appeals Division shall orally inform the Board and the parties about the correction or clarification at the beginning of the oral hearing.

IV. Nonappearance Matters

A. Appeals Conference Held - Appeals Division Summary Decision

After each Appeals Conference held for a petition that did not request an oral hearing, the Appeals Division will prepare a Summary Decision entitled "Appeals Division's Summary and Recommendation for Property Tax Petition on Legal Appeals Matters Calendar." The Summary Decision will be submitted for consideration and adoption by the Board Members, similar to the summary decisions issued for appeals from the Franchise Tax Board. The Summary Decision will objectively summarize the Appeals Conference proceedings, set forth the issues, the factual background, the contentions of the petitioner and the Valuation Division, the applicable law and an analysis of the issues, and the Appeals Division's recommended resolution of the issues presented. The Summary Decision will be submitted to the Board Proceedings Division no later than ten days prior to the meeting at which the petition is scheduled for Board action. The Board Proceedings Division will distribute copies to the Board Members and to the parties. If the Summary Decision requires correction or clarification, the Appeals Division will prepare and submit a Revised Summary Decision to the Board Proceedings Division prior to the meeting at which the petition is scheduled for decision by the Board.

B. No Appeals Conference – Agreement on all Issues - Property Tax Matters
Nonappearance Calendar

If the petitioner has not requested an oral hearing or an Appeals Conference, or has waived its oral hearing and Appeals Conference, and the parties agree on a joint recommendation to the Board on all the issues raised in the petition, the Tax and Fee Program Division will submit a Summary Decision entitled “Valuation Division’s Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar” to the Chief of Board Proceedings, setting forth an analysis of the petition, the related supporting documents, and a staff recommendation for Board action. Under these circumstances, the “Valuation Division’s Recommendation on Property Tax Petition on the Property Tax Matters Nonappearance Calendar” constitutes the only staff recommendation to the Board for its decision on the petition and will be distributed by the Board Proceedings Division to the Board Members and the petitioner no later than ten days prior to the meeting at which the petition is scheduled for Board action.

C. No Appeals Conference - Unresolved Issues - Legal Appeals Matters Nonappearance
Calendar

If the petitioner has not requested an oral hearing or an Appeals Conference, or has waived its oral hearing and Appeals Conference, and the parties do not reach an agreement for a joint recommendation to the Board, the Valuation Division will submit a “Valuation Division Summary,” setting forth an analysis of the petition, the related supporting documents, and a staff recommendation for Board action.¹ The petitioner may file an optional response within 15 days after the Board Proceedings Division mails the Valuation Division Summary to the petitioner. The Board Proceedings Division will distribute a copy of the Valuation Division Summary and petitioner’s optional response to the petitioner, the Appeals Division, the Board Members, the Valuation Division and the Tax and Fee Program Division. Once the briefing process is completed, the Appeals Division will review the petition, Valuation Division Summary, and petitioner’s response, if any, and prepare a Summary Decision, as described above, entitled the “Appeals Division’s Summary and Recommendation for Property Tax Petition on Legal Appeals Matters Calendar.” The Summary Decision will be objective and set forth the issues, the factual background, the contentions of the petitioner and the Valuation Division, the applicable law and an analysis, and the Appeals Division’s recommended resolution of the issues presented. The Appeals Division will submit the Summary Decision to the Board Proceedings Division no later than ten days prior to the meeting at which the petition is scheduled for Board action. The Board Proceedings Division will distribute a copy of the Summary Decision to the petitioner, the Board Members, the Valuation Division, and the Tax and Fee Programs Division.

¹ “Valuation Division Summary” was previously entitled “Staff Recommendation on Property Tax Petition on the Nonappearance Calendar.”

If you have any questions, please contact Tax Counsel IV Louis Ambrose at (916) 445-5580.

Sincerely,

/s/ Gary Evans

Gary Evans, Acting Chief
Board Proceedings Division